IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL REVISION APPLICATION NO.57 OF 2005

Jayesh V. Desai Petitioner

Vs.

Vijay V. Limaye & ors. Respondents

Mr.Satish Shah with Mr.S.D.Mulye and Mr.V.Desai for petitioner.

Ms.Manjari Parasnis h/f. Mr.G.S.Godbole for Resp.Nos.1 and 2.

CORAM: B.H.MARLAPALLE,J.
August 09, 2005.

ORAL ORDER:

. Heard. The order impugned has been passed by the learned Jt.Civil Judge Senior Division at Satara on 2-12-2004 rejecting the application at Exhibit 50 moved in Special Civil Suit No.314 of 1993. By the said application the issue of limitation was raised and it was prayed that the plaint was required to be rejected under Order VII Rule 11 of CPC on the ground of limitation itself as the cause of action arose on 6th June 1989 and the suit was filed on 7-6-1993.

. The trial Court noted that the defendant himself had submitted draft issues for the trial of the suit and the issue of limitation is one of the issues framed already. In the instant case the issue

of limitation would be a mixed question of law and fact and, therefore, it would be decided after adducing oral evidence. The oral evidence of the plaintiff is already completed and, therefore, it would not be proper to entertain the application at Exhibit 50 at such a belated stage.

. The impugned order itself shows that the issue of limitation is going to be decided after the evidence is recorded and, therefore, the impugned order will not come in the way of the defendants to argue the issue of limitation during the final trial of the suit which has been pending for the last about 12 years.

. With the above clarifications, no interference is required to be caused in the impugned order and the revision application is rejected summarily.

(B.H.MARLAPALLE,J.)